

WOODBURN PLANNING COMMISSION MEETING MINUTES
January 22, 2009

CONVENED The Planning Commission met in a regular session at 7:00 p.m. in City Hall Council Chambers with Chairperson Bandelow presiding.

Chairperson Bandelow questioned members of the Planning Commission having potential conflicts such as family, financial, or business relationship with regard to the meeting. If such a potential conflict exists, she asked whether the commissioner in question believes he or she is without actual bias or whether he or she would like to step down from the Planning Commission during the meeting. There were none.

Chairperson Bandelow announced that the agenda is available at the back of the room. We will consider items one at a time according to the order listed in the agenda. The Planning Commission Meeting would be treated as a workshop. All persons wishing to speak are welcome to speak at any point in time without going to the podium.

ROLL CALL

Chairperson	Bandelow	P
Vice Chairperson	Vancil	A
Commissioner	GrosJacques	P
Commissioner	Grigorieff	P
Commissioner	Hutchison	P
Commissioner	Jennings	P
Commissioner	Kenagy	P

Staff Present: Jim Hendryx - Community Development Director
Jon Stewart – Assistant City Attorney
Natalie Labossiere – Senior Planner
Don Dolenc – Associate Planner
Sasha Sprauer – Administrative Assistant

Commissioner Jennings led the salute to the flag.

MINUTES

- A. Woodburn Planning Commission Meeting Minutes of January 8, 2009.
Commissioner Jennings moved to accept the minutes. Commissioner Grigorieff seconded the motion, which unanimously carried.

BUSINESS FROM THE AUDIENCE

None.

DISCUSSION ITEMS

A. Planning Commission Training

Assistant City Attorney Stuart explained types of land use decisions. Legislative decisions allow for latitude. They are made from a policy making body and the rules are applied to the entire city. Quasi-judicial decisions are inflexible. The Commission acts as a judge and the rules are applied to individuals. Most of the time, the Planning Commission would make quasi-judicial decisions.

Assistant City Attorney Stuart explained that legislative land use decisions are policy decisions, constrained by state and local laws. There are procedural requirements that must be followed.

There was discussion amongst the Planning Commission and staff in regards to the required statements that the Planning Commission and staff must read during public hearings.

Assistant City Attorney Stuart explained quasi-judicial land use decisions in-depth. The rules and processes that are required are constrained, with the goal that they provide due process and fair treatment. He stated staff must ensure that applications comply with the WDO requirements, and both staff and the Planning Commission must use limited discretion throughout the process.

Assistant City Attorney Stuart explained that staff and the Planning Commission must make decisions based on the criteria effective at application submittal.

Assistant City Attorney Stuart described the difference between ambiguities in the code versus disagreement with the code. Ambiguity in the code refers to questions of the provision's meaning. The provision is unclear or vague. The Planning Commission has the option to ask staff for more research when a provision is ambiguous. Disagreement with the code refers to specific definitions. The provision does not allow leniency or discretion, and the code is black-and-white. The Planning Commission has the option to request a formal interpretation by City Council when they disagree with a provision.

Assistant City Attorney Stuart explained how to ensure evidence enters the record. Evidence is in the record when it is in the application, staff report, and/or written or oral testimony in a public hearing. Evidence found during a site visit could be declared in a public hearing when it allows for rebuttal. A decision must be based on what is in the record.

There was discussion amongst the Planning Commission and staff in regards to evidence collected during site visits in past projects.

Assistant City Attorney Stuart stated when applicants, staff and/or the Planning Commission disagree with the intended purpose of an area, staff must research and provide additional findings. The Planning Commission can call for a continuance when they need more findings or need to review documents submitted into record.

Assistant City Attorney Stuart explained that the burden of proof lies on the applicant. They must have findings to show that their project meets WDO requirements.

Assistant City Attorney Stuart stated that decisions must be based on what a reasonable person could find.

Assistant City Attorney Stuart explained the procedural requirements of a public hearing. Everyone has a right to a public hearing and to present or rebut evidence. Rebuttal is always allowed when new evidence is entered into the record. The Planning Commission must notify the public that they have ex-parte contact, and disclose and describe the content before the hearing. The public can challenge a Planning Commissioner about having ex-parte contact, or a conflict of interest.

Assistant City Attorney Stuart explained that ex-parte contact is any contact with the applicant before the public hearing. Bias is prejudice or prejudgment that would interfere with the objectivity of the case. Conflicts of interest are actual conflicts or relations that would result in personal financial gain or loss based on the decision of the Planning Commission.

There was discussion amongst the Planning Commission and staff in regards to evidence versus arguments, and the procedural requirement to allow for rebuttal.

Assistant City Attorney Stuart explained that evidence is facts, and arguments are the discussion of facts. He also stated that before the close of a public hearing, the public can request the record remain open for seven days. The Planning Commission has the option to allow for a continuance, or for the record to remain open.

There was discussion amongst the Planning Commission and staff in regards to when the Planning Commission should ask staff questions. It is best to ask questions when the hearing is open. The Planning Commission can ask staff clarifying questions at any time during the public hearing.

There was discussion amongst the Planning Commission and staff in regards to the timeframe of the public hearing. If the Planning Commission wishes to set a timeframe for oral testimony, they must set the time limit at the start of the public hearing. Rules must remain consistent. The Chairperson may ask the speaker to focus and address the criteria.

Assistant City Attorney Stuart explained ethics and commission rules of the Planning Commission. The Attorney and Assistant City Attorney represent the city. The State of Oregon's Ethics Commission represents the Planning Commission and requires each commissioner to complete a quarterly ethics form.

There was discussion amongst the Planning Commission and staff in regards to bias and what must be declared in a hearing. Bias is subjective and does not need to be declared, although the public may challenge whether there is bias.

Assistant City Attorney Stuart explained the order in which the Planning Commission must conduct a hearing. During the preliminary announcements, when the Planning Commission reviews the posted meeting outline, the public has the opportunity to "Raise it or Waive it." They can bring up an issue for further discussion, or they lose the opportunity to bring it up later.

Community Development Director Hendryx stated that the Open House on January 21, 2009 was a success. He also stated that the Mayor would appoint a task force dedicated towards updating the WDO Sign Regulations. He would like the Planning Commission to create a subcommittee to address staff reports, and a subcommittee to create Planning Commission rules.

BUSINESS FROM THE COMMISSION

None.

ADJOURNMENT

Commissioner Hutchison moved to adjourn the meeting, Commissioner Grigorieff seconded the motion, which unanimously carried. Meeting adjourned at 9:15 PM.

APPROVED _____

ELLEN BANDELOW, CHAIRPERSON

Date

ATTEST _____

Jim Hendryx
Community Development Director
City of Woodburn, Oregon

Date